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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------|---------------------------|------------------|
| 10/660,895 | 09/12/2003 | William M. Lawson JR. | 6577-A-2 (CIP A-1) | 6975 |
| 7590 | 07/28/2004 | | EXAMINER | |
| C. Robert von Hellens CAHILL, VON HELLENS & GLAZER P.L.C. Suite 155 2141 E. Highland Avenue Phoenix, AZ 85016 | | | LUM VANNUCCI, LEE SIN YEE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3611 | |
| DATE MAILED: 07/28/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/660,895 | LAWSON, WILLIAM M. |
| Examiner | Art Unit | |
| Lee Lum | 3611 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 September 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-26 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 15 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The disclosure is objected to because the following elements lack antecedent basis:
in Claim 16, line 7- direction, center,
in Claim 19 – width,
in Claim 25 – rate.
2. DOUBLE-PATENTING REJECTIONS

A(i). **Claims 1-10** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-7, 10, 15-20, 22 and 27-34 of U.S. Patent No. 6631925 in view of Huntsberger et al 6405817, Allard et al 5323867, and Harrod 4988143.

The present application recites a battery-operated motor. Huntsberger shows this motor in col 3, lines 12-14. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this type of motor, as shown in Huntsberger, as one of several types to drive the vehicle. Prior art discloses various types of motors for this purpose, and all are functionally equivalent.

The present application also recites drive means including cog wheels and a belt. Allard shows this type of drive means including cogs 44/74, and belts 32. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this type of functionally-equivalent drive means, as shown in Allard, for specific applications. This type is well-known in the art.

The present application also recites a forwardly-located storage compartment. Harrod shows this feature under hood 78. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this feature, as shown in Harrod, to permit transport of articles for the comfort and enjoyment of the user.

A(ii). **Claim 11** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 10, 15-20, 22 and 27-35 of U.S. Patent No. 6631925 in view of Huntsberger, Harrod, and Allard, and in further view of Falkenson et al 5042607.

The present application recites a disc brake. Falkenson shows this type of brake in col 2, last two lines, to col 3, lines 1-3. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this brake type, as shown in Falkenson, as a functionally-equivalent means for braking that is also compact and reliable.

A(iii). **Claims 12, 13 and 15** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 10, 15-20, 22 and 27-35 of U.S. Patent No. 6631925 in view of Huntsberger, Harrod, and Allard, and in further view of Bienz et al 6656010.

The present application recites a manual throttle and associated circuitry. Bienz shows a manual throttle in col 3, lines 49-54, controlled by circuitry. The circuitry also provides moving the vehicle in reverse in col 3, lines 54-55. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include these features, as shown in Bienz, to allow the user to control the motor, and travel direction, thus increasing maneuverability and safety.

A(iv). **Claim 14** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 10, 15-20, 22 and 27-35 of U.S. Patent No. 6631925 in view of Huntsberger, Harrod, Allard, and Bienz and in further view of Miller 5992556.

The present application recites a soft start for the motor. Miller shows this feature 130 in col 6, lines 11-17. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this circuitry, as shown in Miller, to prevent an abrupt start when the throttle is actuated, thus decreasing incidents of bodily injury or damage to the vehicle/other objects.

B(i). **Claims 16 and 18-20** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9, 15, 21, 27 and 33 of U.S. Patent No. 6631925 in view of Harrod 4988143.

The present application recites a forwardly-located storage compartment. Harrod shows this feature under hood 78. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this feature, as shown in Harrod, to permit transport of articles for the comfort and enjoyment of the user.

B(ii). **Claim 17** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 15 and 27 of U.S. Patent No. 6631925 in view of Harrod, and in further view of Huntsberger.

The present application recites a throttle mounted on the steering assembly. Huntsberger shows this element 37 on steering handle 38 in fig 12. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this feature, as shown in Huntsberger, to permit control of the motor in a easily-accessible area on the steering mechanism, thus increasing safety and comfort.

B(iii). **Claim 21** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 15, and 27 of U.S. Patent No. 6631925 in view of Harrod, and in further view of Falkenson.

The present application recites a disc brake. Falkenson shows this type of brake in col 2, last two lines, to col 3, lines 1-3. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this brake type, as shown in Falkenson, as a functionally-equivalent means for braking that is also compact and reliable.

C(i). **Claims 22-24 and 26** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10, 15, 22, 27 and 34 of U.S. Patent No. 6631925 in view of Bienz.

The present application recites a battery-operated motor, controlled by a throttle and associated circuitry. Bienz shows

Battery-operated motor in col 2, lines 36-37, and

Throttle mounted on the steering assembly in col 3, line 53, controlled by circuitry.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include these features, as shown in Bienz, to allow the user to easily control the motor, thus increasing maneuverability and safety.

C(ii). **Claim 25** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10, 15, 22, 27 and 34 of U.S. Patent No. 6631925 in view of Bienz, and in further view of Miller.

The present application recites a soft start for the motor. Miller shows this feature 130 in col 6, lines 11-17. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this circuitry, as shown in Miller, to prevent an abrupt start when the throttle is actuated, thus decreasing incidents of bodily injury or damage to the vehicle/other objects.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. The prior art made of record, and not relied upon, is considered pertinent to the disclosure: Bohannan 5307889, Harrod 4709958, Cunard 4562893, Lawrence et al 4185711.

4. Communication with USPTO/Examiner

Any inquiry concerning this communication, or others, should be directed to Ms. Lum at 703 305-0232, M-F, 9-6. If attempts to reach the examiner are unsuccessful, her supervisor, Ms. Lesley Morris is at 703 308-0629. Our fax number is 703 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications: private PAIR only, for published applications: private or public PAIR. For more information re PAIR: <http://pair-direct.uspto.gov>. Questions re private PAIR: contact the Electronic Business Center (EBC) at 866 217-9197.

Lesley D Morris
LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Ms. Lee S. Lum
Examiner
7/20/04

[Signature]